

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
HATTIESBURG DIVISION**

**MARGO SCHENCK, INDIVIDUALLY
AND
ON BEHALF OF HER MINOR CHILD,
ELIZABETH M. SCHENCK
PLAINTIFFS**

v. CIVIL ACTION NO. 2:06cv183KS-JMR

**THEODOR A. VANOVER and
KEEN TRANSPORT
DEFENDANTS**

**ORDER APPROVING SETTLEMENT OF MINOR'S CLAIMS AND DISMISSAL
OF ALL CLAIMS WITH PREJUDICE**

This matter having come before the Court on the Motion *ore tenus* of Defendants Theodor A. Vanover and Keen Transport for an Order approving settlement of minor's claims and dismissal of all claims, with prejudice, and the Court having been advised that this matter has been settled, finds that the Motion is well taken and should be granted for the following reasons:

1.

On June 7, 2006, this action was brought by Margo Schenck, on her behalf and as natural mother and legal guardian of her minor daughter, Elizabeth M. Schenck, seeking damages for personal injuries allegedly resulting from a motor vehicle accident.

2.

As a result of substantial negotiations between the parties Margo Schenck, on her behalf and as natural mother and legal guardian of her minor

daughter, Elizabeth M. Schenck, has agreed to fully settle and compromised her claims, including those brought on behalf of Elizabeth M. Schenck, in exchange for Defendants' payment of \$3,500.00.

3.

All parties have consented to the exercise of the Court's ancillary jurisdiction to hear State causes of action flowing from the complained of conduct, and requested that the United States District Court sit as a Mississippi Chancellor to approve this minor's settlement. The amount of the settlement will be less than the statutory amount required for establishing guardianships pursuant to Miss. Code Ann. § 93-3-2 (1972), the money can be delivered directly to Margo Schenck, the next friend and natural mother and legal guardian of Elizabeth M. Schenck, and no additional accountings need be required pursuant to the statute provided.

4.

The United States District Court may sit as a Court of Equity and, in the interest of avoiding a multiplicity of lawsuits and in the interest of judicial economy, should exercise its equitable jurisdiction and entertain this Motion.

5.

The Court finds that this settlement is in the best interest of the minor, that the claim advanced involves competing interests and rights, is very doubtful in nature, and that the minor has sustained no out of pocket damages for treatment or counseling for any physical or psychological injuries.

6.

George W. Healy, IV, Esq. and the Healy law firm have provided valuable service to the Plaintiffs and should be authorized to charge and collect the contractual contingent fee agreed to by and between the attorneys and Margo Schenck, as natural mother, legal guardian, and next friend of Elizabeth M. Schenck.

7.

Defendants have consistently denied all liability in connection to this matter, and still vigorously resist all claims and demands for damages.

8.

The General and Absolute Release, attached as Exhibit "A" to Plaintiff and Defendants' Joint Motion, has been carefully reviewed by this Court, and the terms thereof are both fair and reasonable. Acceptance of this agreement would be in Elizabeth M. Schenck's best interest, since she may be denied any recovery whatsoever if this court enters judgment in favor of Defendants or if a jury finds in favor of Defendant.

9.

Defendants require as a condition precedent to the proposed settlement that they be fully and finally discharged from all claims which Margo Schenck and Elizabeth M. Schenck might have against them as a result of the alleged events described in the Complaint. Counsel for both parties have approved the terms of the settlement and release.

10.

The Joint motion to approve the settlement of the claims of Elizabeth M. Schenck, a minor, is well taken; and

11.

This cause has been compromised and settled with respect to all claims so that there remain no issues to be disposed of by the Court.

IT IS, THEREFORE, ORDERED that the settlement of the claims of Elizabeth M. Schenck, a minor, should be, and the same are hereby, approved; and

IT IS FURTHER ORDERED that all claims, be, and the same are hereby, dismissed with prejudice, with each party to bear their own costs and expenses.

SO ORDERED, this, the 15th day of September, 2006.

s/Keith Starrett

United States District Court Judge

AGREED:

/s/ Arthur D. Spratlin, Jr.
Arthur D. Spratlin, Jr.

ATTORNEYS FOR DEFENDANTS,
KEEN TRANSPORT, INC.
AND THEODOR A. VANOVER

/s/ George W. Healy, IV
George W. Healy, IV

ATTORNEY FOR PLAINTIFFS